

Minutes
Catawba County Board of Commissioners
Special Session, Monday, August 28, 2006

The Catawba County Board of Commissioners met in a special session at 8:40 a.m. on Monday, August 28, 2006, in the Second Floor Meeting Room of the Catawba County Government Center, 100A Southwest Boulevard, Newton, North Carolina. The purpose of the special meeting was a work session for the Board to discuss issues pertaining to the County's proposed Unified Development Ordinance and to conduct a closed session meeting in accordance with NCGS 143-318.11(a)(3) to consult with an attorney in order to preserve the attorney-client privilege between the attorney and the public body and to discuss possible litigation.

Present were Chair Katherine W. Barnes, Vice-Chair Dan Hunsucker and Commissioners Lynn M. Lail, Barbara G. Beatty and Glenn E. Barger.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Lee Worsley, Interim County Attorney Debra Bechtel and Planning Director Jacky Eubanks. Assistant County Manager Joellen Daley joined the meeting at 9:00 a.m.

Chair Barnes called the meeting to order. Chair Barnes stated the work session was a follow-up to the comments received both at the public hearing on the UDO on August 21, 2006 and through individual contact and phone calls received by Board members from citizens of the County.

The first issue discussed was illegal businesses/cottage industry. Commissioner Barger requested that Jacky Eubanks clarify the differences in restrictions pertaining to cottage industry in the present ordinance and the proposed ordinance. He then asked how many non-compliant businesses had been cited and for what kinds of violations. Jacky confirmed that Mark Fowler was the only compliance officer for violations. Chair Barnes then raised the issue on how the County makes the proposed UDO enforceable when it came to non-compliant businesses and Commissioner Barger added his question regarding how much it would cost to do this enforcement. Vice-Chair Hunsucker also questioned the effect the enforcement would have on tax revenue. Another question addressed whether these businesses were operating under the farm use exemption and if they, in fact, should be paying taxes of full property tax value. Commissioner Lail pointed out the real problem was there had been a number of these businesses that had been in existence for a long time and the County did not enforce the restrictions on these businesses and now the Board was in a difficult situation trying to enforce the new ordinance. Commissioner Lail asked Jacky to clarify if there was some way to grandfather these businesses even if they were not on the accepted list of businesses and were considered illegal. Jacky replied that as a policy, it was proposed to give all (regardless of legal or illegal) businesses some time because of the economic conditions and the fact that many of them had been in existence for years. The ordinance wouldn't change, but the policy would give them a grace period and the staff would work with these businesses to become compliant or find other alternatives to stay in business. Jacky pointed out that the UDO was actually more flexible because it created another tier of businesses in a rural setting which gave people more flexibility so more businesses could be operated legally. Jacky said currently there were ten or less businesses under code enforcement and action on all of those had been suspended.

Commissioner Lail said the County needed to address this issue in a positive manner so the public better understood what was trying to be accomplished and suggested that the business incubator idea raised by Commissioner Beatty should be investigated. Vice-Chair Hunsucker agreed and said it appeared things were being taken away from the citizens and more focus needed to be given to the positives. Jacky pointed out the businesses that were being conducted in buildings really had not been an issue but those businesses with outside storage or outside activities were those that drew citizen complaints. Commissioner Barger suggested the ordinance address the clutter, mess and outside activities and not close down all the other contained businesses – address the problems with businesses rather than target certain types of businesses. Vice-Chair Hunsucker agreed – he believed the issue was not the business

itself but whether that business was a good neighbor and trying to get along and not causing trouble in a neighborhood. Commissioner Barger said if the ordinance could be based on health and safety issues rather than attitudes towards certain types of businesses, it would be something to stand on and would be defensible.

The Board then moved on to mobile homes. Chair Barnes asked Jacky to talk about the change out issue. The appearance criteria came into effect in 1996 regarding areas such as underpinning, siding and roofing. The metal on metal issue really wasn't an appearance issue that was affected by the grandfathering done with the 1996 criteria – the issue with metal on metal was more to do with the market and industry - metal on metal mobile homes have aged out and have no value so they can't get a premium for upgrading them. Chair Barnes said then the issue was how to get rid of the abandoned mobile homes. It cost \$2-3,000 to dispose of them and that was more than they were worth. She questioned what legally could the County do to have people clean these up. Attorney Debra Bechtel said the home had to be uninhabitable before it became a solid waste issue and at that point, the County could go against the property owner but there were many that don't meet that uninhabitable criteria. Commissioner Lail said that again, as with the cottage industry issue, if the health and safety aspect was the criteria rather than just arbitrary opinion or appearance, there would be less resistance from the citizens. She said maybe there was something to be said for minimum housing standards. Citizens have voiced their concern that there are a lot of stick built houses in more disrepair than mobile homes. Chair Barnes said she didn't understand why the UDO didn't aim for minimum housing standards and go in this direction rather than zeroing in on mobile homes. Jacky Eubanks said very few counties had a minimum housing code and those that did had to deal with the now vacated unsafe homes which were boarded up and no provisions were made to take the homes down so the eyesores remained. He said a minimum housing code would be very labor intensive (staff), it would take up Board time to adopt resolutions for abandonment and closure and the house would still be there. Commissioner Lail asked Attorney Bechtel about the proposed criteria that if a mobile home subdivision was built out more than 50% in doublewides, it could continue to be built out in doublewides – but if it was less than 50% built out, it would have to be built out in stick built homes or modular. She had received a call from a citizen saying that it would not hold up in court. Debra said she had not done research on this issue but she thought it would be an uphill battle to defend that criteria since it was an existing subdivision – so that proposed criteria was questionable. Commissioner Barger said he had a question from a citizen – Target had just been recruited into the area and would have average jobs paying less than \$10/hr and gas was projected to go to \$4/gal – where did the County expect these people to live? If mobile home parks are restricted, where were they going to be able to afford to live? Commissioner Barger said if he had a child and was unable to help that child obtain a home, the proposed ordinance was going to condemn that child to a mobile home park – rather than on an individual lot with a mobile home. County Manager Lundy asked what the vision was? Should the County require developers to build more affordable housing? Commissioner Barger said the developers wouldn't do that on individual lots – there was no money in it. Commissioner Lail pointed out that Catawba County also had to be careful – other counties were being stricter regarding singlewides and if they were not careful, Catawba County would become the dumping ground for singlewides. Both Commissioners Lail and Beatty noted the decline in use of singlewides that was occurring without the ordinance (only 39 permits in the last year) and Commissioner Beatty said it might be that the people complaining about the restriction might not even plan on a singlewide but just don't want to be told they can't have one. It was suggested the market itself may take care of the singlewide issue itself. She suggested educating the public on other options that were of equal costs – Vice-Chair Hunsucker the need for resources so potential singlewide buyers could see they had other choices.

Commissioner Lail again stressed putting a positive side to these proposals – i.e. – why the proposal for the two acre minimums and how septic tank failures on smaller lots were a health and safety issue. Commissioner Barger said that the small area plans failed to have mobile home owners or small lot owners on them and that perhaps it was a mistake because the whole community wasn't represented. He said he had heard from several people that what the UDO proposed (2 acre minimums) was not what was in the small area plan (there were more 2 acre restrictions than what were in the plans). Chair Barnes said the whole zoning map needed to be looked at and reviewed to see how it met the needs/goals of the County and the small area plans. There didn't appear to have a good balance or distribution. She questioned whether two acre minimums were what Catawba County really wanted to be

about. Commissioner Barger asked about the 50% of the County being in the 2-acre minimum – but if you included the municipalities, it appeared to be so much more. Commissioner Lail asked about the Startown area having the majority of the mobile homes – maybe this should be revisited and distributed more evenly over the County. Mr. Lundy reminded the Board that the Plateau small area plan had a lot of mobile homes and it was decided that there should be a redistribution and it was then decided that mobile homes should not be concentrated along the major highways (321, 10 etc.) – and that redistribution may have put some mobile homes closer to existing subdivisions. Commissioner Lail stated she didn't think any of the small area plans should have a concentration of mobile homes and there should be an effort to distribute them evenly in the County. It was requested that the Board get an updated map on where mobile homes were designated in the County – to include both parks and doublewides. Commissioner Beatty reminded everyone that what they were hearing was more family issues – and she believed most citizens were against mobile home parks and wanted mobile home restrictions. The question was how to govern the family issue – i.e. renting after family moves out, etc.

Jacky Eubanks pointed out the misinformation on grandfathering of less than 2 acre lots caused a lot of calls to the Board – that misinformation had now been corrected. Also, people in the city limits were calling and didn't know this zoning did not apply to them. Commissioner Lail asked if there was a zoning map that compared how it was being zoned with projected utilities – proposed water and sewer lines. Mr. Lundy said that had been requested at an earlier Chamber of Commerce meeting and it was then stated the County did not have a 5-10 year utility extension list besides the CIP in the budget – and that was why flexibility was written into the ordinance so when those utilities were available there could be increased density. Commissioner Lail suggested developing some proposed maps – not overlays – but maps based on the proposed sewer in the southeast portion of the County just to give them a visual of what was possible.

The next question raised was about transfer of development rights. Chair Barnes asked why it was not included in the ordinance. Jacky Eubanks responded that it had not been determined by the School of Government if it can be done legally but there are development agreements available in conditional zoning. Even though Hickory says it has Transfer of Development Rights, there are no designated sending and receiving zones. Commissioner Barger suggested getting a copy of the Gaston County ordinance to see how they handled it.

Chair Barnes then asked to talk about the storage unit issues. Most of the questions she had received were issues related around businesses in cities now – that was not to say the County wouldn't face these issues. Retail businesses are using this storage. Jacky explained that the ordinance requires these storage units to be moved in 7 days for temporary storage in residential areas – and the argument was that was too short a time to even fill the storage units. There were also questions regarding the ordinance being too restrictive on the industrial and commercial storage units. Mr. Lundy clarified that storage containers were not banned during construction. Jacky said that the location of the containers was important – if located at the rear of the building it was less problematic than in front. Commissioner Barger asked if he could have one on five acres – if it was hidden and out of sight – what was the problem. Jacky said no, not in a residential area.

Commissioner Lail said family subdivisions needed to be addressed. She asked how family subdivisions could be made more friendly and more easily distributed. Jacky asked the question “where does it stop?” – he said the family subdivision was a unique thing in Catawba County (Chair Barnes asked how many other counties had family subdivisions – Jacky said he had never heard of it until he came to Catawba County) – he said they were a good thing but the proposed ordinance had family subdivisions but they had been reduced – the average family size in Catawba County is now .65 children – and from a legal standpoint, someone can come in one week and create a family subdivision with five lots and tell the County that it was for children or parents and go out the next week and sell the lots to the public – and the public wants to know why did the County allowed this right of way of 45 feet with no standards? - The County cannot make it stay in the family unless it was policed – and massive amounts of staff time would be required to do that policing – Attorney Bechtel pointed out that the family subdivision lots could be split up by divorce, transfers, no more children, etc and then the land would need to be sold outside the family. Chair Barnes asked if it were better to do away with family subdivisions and go with one acre

minimums – Vice-Chair Hunsucker said he was more inclined to go with one-acre minimums. He asked if the two-acre minimum was promoting more sprawl – Jacky Eubanks replied that the septic and well issues needed to be stressed and three years ago there was a crisis because schools' wells were going dry and now their septic systems were failing. Commissioner Lail stressed this reasoning needed to be put out to the public. Chair Barnes said the failing septic tanks and wells needed to be shown on the zoning maps. Commissioner Barger asked about the research that indicated one acre was sufficient for well and septic and how that related to requiring two-acres.

Commissioner Lail then asked if the DOT regulated driveway cuts – and the cities regulated driveway cuts in cities – how was the County getting into the driveway cuts business? Jacky explained that the DOT did regulate driveway cuts in major subdivisions, duplexes, etc. but on individual lots they did not. Jacky said they were trying to reduce driveways cut along very busy, narrow roads in the County and were requiring developers and individuals to look internally for ways to reduce the number of cuts on busy roads. The DOT looked at the County's regulations and said they were consistent with the DOT's principles.

Commissioner Lail asked about the procedure manual and Jacky Eubanks stated that it was available on-line. The design manual was not available – but it would be on-line shortly – in the next week or two.

Chair Barnes asked to talk about affordable housing. She said the Chamber had said that a 10% affordable housing density bonus was not enough. She asked what was happening in other areas. Jacky explained that this was called inclusionary zoning. Charlotte has put a 20% requirement in their zoning but most developers don't like it because they don't make money on it. Catawba County decided not to require it, but to offer an incentive to do it. The question is whether 10% is enough? Jacky said if the percentage is too high – there could be an integrity problem. Commissioner Beatty said the last affordable housing put in recently was Anchors Landing and there is no place for the children to play and no one wants to live there. Affordable housing was more an urban than a rural issue. It was noted by Jacky Eubanks that affordable housing is usually found in cities, closer to transportation, amenities and social services rather than in rural areas. Commissioner Lail again stressed the need to publicize the things the County was doing regarding affordable housing – i.e. the grants sought for home repair, the first homebuyer savings account, etc.

This led into a discussion about how to get these positive actions by the County conveyed to its citizens. Chair Barnes said she believed it may have to come down to sending a newsletter every six months – the citizens were not getting this information on-line or through newspapers – direct mailing may be the only successful way to do it. The cost of mailings was discussed (\$20-25,000) – but it may be a necessary expense. Commissioner Lail said she thought the mailing on the UDO was not user-friendly and hard to read. Commissioner Barger said that any additional information regarding the UDO, especially changes, needed to be clearly communicated to the public.

Commissioner Barger asked where did the Board go from here? – Jacky stressed the UDO was an important document – a 10-15-20 year vision for the future – seven years had been spent to get to this point. There were issues that had been identified in this meeting that should be worked on but he stressed not to throw the baby out with the bathwater – work should be done on those specific issues but the UDO was an important document with a lot of very positive things in it for everyone. Commissioner Barger again said the changes needed to be clearly communicated to the public – and suggested there be an additional public hearing to the one scheduled for 9/18 regarding changes the Board might make. He said that this had to be handled very carefully because the County could stand to lose more than it could gain through this process.

Chair Barnes said that when they were discussing proportionate zoning, the issue of industrial zoning had not been involved. She was concerned when you look in the maps, where does industry get to be located? Commissioner Lail said she thought it would be beneficial to have more industrial zoning on the map because there are companies that just pull up the map on the internet and aren't considering Catawba County because they are not seeing industrial zoning. Commissioner Barger asked if the tax structure for the cottage industry would be residential and Jacky said yes but the good news was the tax

department recognized where there was a business on that site and increased the value by 155% so there were more taxes paid than a residential property sitting right next door. Commissioner Barger asked if this increased tax liability was a way to control cottage industry. Commissioner Barger said if you wanted to have the business then you needed to pay the additional taxes. Chair Barnes asked whether it was legally acceptable to tax at that rate. Mr. Lundy said that State Laws had to be adhered to when determining farm use exemptions and some business taxes.

Commissioner Beatty asked how high-end development could be encouraged. Jacky explained that was what was being attempted in the Crescent project.

Chair Barnes questioned whether the 5 feet sidewalks are necessary and Jacky said 4 feet, which was being suggested by developers, was really too narrow. Jacky pointed out sidewalks were a positive thing and should be encouraged.

The Board requested information on:

Septic tanks and well failures

What Gaston County had done with one-acre minimums

The actual costs of 2 acre zoning as it relates to housing prices

Status of Impact Fee studies

How to protect the return on investment for farmers as it relates to 2 acre zoning

What impact 2 acre minimum has on taxes – and how that effects both property owners and the County

Chair Barnes suggested concluding the work session. She suggested getting through the September 18 public hearing and then schedule another work session. She wanted the Board members individually to look at whether family subdivisions should be continued.

County Manager Lundy asked the Board to consider going into closed session in accordance with General Statute 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged and to discuss possible litigation and no public action was anticipated thereafter. Chair Barnes asked for a motion to move into closed session. Commissioner Barger made the motion at 11:06 a.m. The motion carried unanimously.

The Board returned to open session at 11:15 a.m.

Commissioner Barger made a motion to adjourn at 11:16 a.m. The motion carried unanimously.

Katherine W. Barnes, Chair
Board of Commissioners

J. Thomas Lundy, Deputy County Clerk